IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13..12..2007

CORAM

THE HONOURABLE MR. JUSTICE K. CHANDRU

Writ Petition Nos.8459 of 2004 and 38812 of 2005
and
W.P.M.P. No. 41560 of 2005 in W.P. No. 38812 of 2005

V. Hariharan .. Petitioner in both W.Ps.

Vs.

1. The Special Commissioner
Commissioner for Milk Production and
Dairy Development
Madhavaram
Chennai - 51

2. The Deputy Registrar (Dairy)
Villuppuram

3. Managing Director
Villupuram District Co-operative Milk Producers' Union
Villupuram

4. Special Officer
E.2506 Vikkiravandi Milk Producers'
Co-operative Society Ltd.
12/31 Milekal Street
Vikkiravandi
Villupuram .. Respondents 1 - 4 in both W.Ps.

5. N. Senthamizhselvi .. R5 in W.P. No. 8459 of 2004
(R5 impleded as per order dated 4.1.05
in WMP.No.30293/04)

Prayer: Petitions filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus directing the respondents not to allow or permit anybody or persons to form another Milk Society in Ponnankuppam Village, Villupuram District and for directing the respondents not to de-list Asur Village or any other villages which coming within the area of operation of the fourth respondent Society.

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For Petitioner : Mr. T. Sellapandian

For Respondent 3 : Mr. P. Narayanamoorthy

For Respondent 4 : Mr. R. Chandrasekaran

C O M M O N O R D E R

Heard the arguments of Mr. T. Sellapandian, learned counsel appearing for the petitioner, Mr. P. Narayanamoorthy, learned counsel appearing for the third respondent and Mr.R.Chandrasekaran, learned counsel for the fourth respondent, and perused the records.

2. The petitioner in both the writ petitions is the same person and he is a member of the fourth respondent Society, which is a Milk Producers' Co-operative Society Ltd. In the first writ petition, the prayer of the petitioner is for a direction to the respondents not to allow or permit anybody to form another Milk Society in Ponnankuppam Village, Villupuram District, which is within the area of operation of the fourth respondent Society. In the meanwhile, the fifth respondent was impleaded as a party by an order dated 04.01.2005. Pending the writ petition, in W.P.M.P. No. 9944 of 2004, interim injunction was granted on 31.3.2004. However, on filing a vacate stay application, the interim injunction was made absolute vide order dated 04.01.2005 further stating that status quo shall be maintained in respect of the fifth respondent in selling the milk through Asur Women Milk Producers' Co-operative Society in Yard No. 2. Subsequently, a vacate stay application was filed by the third respondent and the same was dismissed for non-representation vide order dated 01.12.2005. On the same day, this Court passed another order to maintain status quo.

3. A counter affidavit has been filed by the respondents. It is stated by the respondents 1 to 3 that though the Society in which the petitioner is a member, was started in the year 1963, it is comprised of several villages and many people had to walk to Vikiravandi from their places to supply milk and despite the request, the said Society was not willing to release those villages from its jurisdiction. Subsequently, the Mundiyampakkam Milk Producers' Co-operative Society was registered on 24.12.1996 but it was not excluded from the Vikiravandi Society. The respondents considered the welfare of the Adi-Dravidar and Women Milk Producers' Co-operative Society and, therefore, the Mundiayampakkam Society was started. Due to law and order problem, both the Societies were separated on 28.01.2005. On 24.02.2003, another Milk Producers' Co-operative Society was started at Asur and it started functioning on 16.4.2003 as per the Government's Letter No. 1400/2002 dated 03.9.2002. The said Society was maintained entirely by women and they were told that they need not supply to Vikiravandi Society. Since it refused to release

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the said village, the power was exercised by the Registrar to exclude the Asur village from the fourth respondent Society.

4. There is no vested interest either on the petitioner or on the Society to continue to hold any area exclusively under their control. The geographical proximity can be a relevant factor in the Registrar assigning different territorial jurisdiction. Section 16 of the Tamil Nadu Co-operative Societies Act, 1983 empowers the Registrar to delimit the areas operated by each Society and there can be no exception taken for the same. In any event, ultimately, it is the interest of the members of the Society which matters and not the whims and fancies of the single Society to hold or not to hold any area, which were originally formed 45 years ago. Hence, W.P. No. 8459 of2004 lacks in merits and accordingly, stands dismissed. No costs. All the interim orders stand vacated.

5. In W.P. No. 38812 of 2005, the prayer is to prevent the respondents from de-listing Asur village coming within the area of operation of the fourth respondent Society. Since the reasons for de-listing the Asur village have already been dealt with in the earlier writ petition in W.P. No. 8459 of 2004, the second writ petition also lacks in merits. Accordingly, the same shall stand dismissed. No costs. Interim order already granted is vacated and the connected Miscellaneous Petition is closed.

gri

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Special Commissioner
   Commissioner for Milk Production and
   Dairy Development
   Madhavaram
   Chennai - 51

2. The Deputy Registrar (Dairy)
   Villuppuram

+1 cc to Mr.S.Mani, Advocate Sr.No.74141.

NSM(CO)
DCP/8.1

W.P.Nos. 8459 of 2004 &
38812 of 2005

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